

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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|---------------------------|---|-------------------|
| JAY S. PETERSON, |) | 4:11CV3071 |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondents. |) | |

This matter is before the court on Respondent's Motion to Dismiss. (Filing No. [10](#).) After careful review of the Motion and the Declaration filed in support of the Motion, the court intends to treat the Motion as one for summary judgment. As such, the court will consider documents outside of the pleadings submitted by Respondent, and will permit Petitioner an additional opportunity to "present all the material that is pertinent to the motion." [Fed. R. Civ. P. 12\(d\)](#).

IT IS THEREFORE ORDERED that: Petitioner shall have until November 30, 2011, in which to submit a response to the pending Motion to Dismiss, along with any "material that is pertinent to the motion." The Clerk of the court is directed to set a pro se case management deadline with the following text: November 30, 2011: deadline for Petitioner to respond to Motion.

DATED this 1st day of November, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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